



# Department of Local Government Finance

## **2024 Indiana Election Administrators' Conference**

Local Public Questions

December 2023



# Public Questions Certified by DLGF

- Capital Project/Controlled Project Referenda (IC 6-1.1-20)
- Operating Referenda (Schools Only) (IC 20-46-1)
- School Safety Referenda (IC 20-46-9)
- Bond Refunding Referendum (Schools Only) (IC 5-1-5-2.5)
- Reorganization Referenda (IC 36-1.5-4)
- Transit Referenda (Certain Counties) (IC 8-25-2)



# Capital Project/Controlled Project Referendum Process

1. Political subdivision issues the public notice of preliminary determination hearing 10 days before the hearing. (IC 6-1.1-20-3.5(b)(1))
2. Political subdivision holds the preliminary determination public hearing to provide information to the public and adopt resolution or ordinance to issue bonds or enter a lease to finance the project. (IC 6-1.1-20-3.5(b)(1))



# Capital Project/Controlled Project Referendum Process

3. Political subdivision must publish notice of the preliminary determination within 30 days of the passage of the ordinance or resolution. (IC 6-1.1-20-3.5-(b)(2)-(3))
4. After notice of the preliminary determination is published, taxpayers may file a remonstrance petition with the county voter registration office. (IC 6-1.1-20-3.5(b)(4)-(7))
  - 500 individuals or 5% of registered voters.
  - Must be filed not more than 30 days after notice of the preliminary determination is published.



# Capital Project/Controlled Project Referendum Process

5. After receipt of petition, the county voter registration office must determine that all persons who signed the petition (up to 525 persons) are registered voters. *(IC 6-1.1-20-3.5-(b)(8))*
  - If the county voter registration office is unable to verify that all persons who signed are registered voters, the office must forward the petition to the county auditor no later than 15 days after receiving petition. *(See Next Slide)*
  - If the county voter registration office is able to verify that all signatures are from registered voters, the office must make the final determination of whether a sufficient number of persons has signed the petition within 10 days.



# Capital Project/Controlled Project Referendum Process

- *If county voter registration office forwards the petition to the county auditor due to signature deficiencies, the county auditor must provide the following to the county voter registration office no later than 10 days after receiving the petition:*
  - *Statement verifying whether a person who signed the petition as a registered voter but is not a registered voter is the owner of real property in the political subdivision; and*
  - *State verifying whether a person who signed the petition as an owner of the property does in fact own property within the political subdivision.*



# Capital Project/Controlled Project Referendum Process

6. The county voter registration office must file a certificate and each petition with either the township trustee (if the political subdivision is a township) or the body that has the authority to issue bonds or execute the lease. Certificate and petition must be filed within 35 days of the filing of the petition.
  - *If a petition is received with the required number of signatures, the political subdivision must not impose property taxes to pay debt service on bonds or lease rentals unless it is approved via a local public question. (IC 6-1.1-20-3.6(b))*



# Capital Project/Controlled Project Referendum Process

7. If the capital/controlled project must be voted on via a local public question, the county election board must approve the ballot language, as outlined in Ind. Code § 6-1.1-20-3.6.
8. Once the county election board approved the ballot language, the board must submit the public question language to the Department for review.
  - *The Department may recommend a modification of the ballot language, and the county election board must submit the modified ballot language to the Department.*





# Capital Project/Controlled Project Referendum Process

9. The Department must certify its final approval of the ballot language for the public question to the county auditor. *(IC 6-1.1-20-3.6(d))*
10. The county auditor must certify the finally approved question to the county election board no later than noon 74 days before a primary election or August 1 if the question is to be placed on general election ballot.



# Capital Project/Controlled Project Referendum Process

- A political subdivision may voluntarily decide to place a referendum on the ballot instead of going through the petition and remonstrance process.
  - A resolution must be adopted by the date of the preliminary determination and must be certified to the county election board in each county where the political subdivision is located. (IC 6-1.1-20-3.8)



# Capital Project/Controlled Project Referendum Process

- Special Election
  - If a primary, general, or municipal election will not be held during the first year the public question is eligible to be placed on the ballot and the political subdivision requests the question be placed on the ballot at a special election, the question shall be placed on the ballot at a special election to be held on the first Tuesday after the first Monday in May or November of the year.
  - The certification must occur not later than noon 74 days before a special election to be held in May or noon on August 1 if the special election is to be held in November.



# Capital Project/Controlled Project Referendum Process

- Special Election
  - The fiscal body of the political subdivision that requests the special election shall pay the costs of holding the election.
  - The county election board must publish notice one time, at least 10 days before the date of the special election.
  - The special election is under the direction of the county election board, which must take all steps necessary to carry out the special election.



# Referendum Process Flow Chart

## Construction Project Local Public Question/Referendum Process\* for bond issue or lease rental with a preliminary determination after December 31, 2023.

<p>The local public question/referendum process only applies to the following controlled projects:</p> <ul style="list-style-type: none"> <li>- An elementary school building, middle school building, high school building, or other school building for academic instruction that will be used for any combination of kindergarten through grade 12 and will cost more than the lesser of \$19,051,397 or 1% of the total gross assessed value ("AV") within the political subdivision on the last assessment date, if that amount is at least \$10,000,000.</li> <li>- Any other controlled project that will cost the political subdivision more than the lesser of \$19,051,397 or 1% of the total gross AV of property within the political subdivision on the last assessment date, if that amount is at least \$1,000,000.</li> <li>- Any other controlled project that, when added to the costs of all controlled projects adopted by a political subdivision within the preceding 365 days, makes the sum of the costs of all the controlled projects to be at least \$25,000,001.</li> <li>- A controlled project for which a public hearing was held after June 30, 2023.</li> </ul>	<p>Publish notice of preliminary determination hearing at least 10 days before the hearing</p> <p>IC 6-1.1-20-3.5(b)(1)</p>	<p>*Taxing units with appointed boards, such as libraries, must first receive approval of city, town or county fiscal body (whichever is applicable) before issuing bonds or entering into lease rental agreements.</p> <p>The city, town or county fiscal body approval would occur prior to the preliminary determination hearing in these cases.</p> <p>IC 6-1.1-17-20.5</p> <p>**If a primary, general, or municipal election will not be held during the first year the public question is eligible to be placed on the ballot and the political subdivision requests the question be placed on the ballot at a special election, the question shall be placed on the ballot at a special election to be held on the first Tuesday after the first Monday in May or November of the year. The certification must occur not later than noon 74 days before a special election to be held in May or noon on August 1 if the special election is to be held in November.</p> <p>The fiscal body of the political subdivision that requests the special election shall pay the costs of holding the election.</p>	
	<p>Hold preliminary determination public hearing to adopt resolution/ordinance to issue bonds or enter lease to finance project and provide the public certain information regarding the controlled project</p> <p>IC 6-1.1-20-3.5(b)(1)</p>		
	<p>Publish notice of the preliminary determination within 30 days after the passage of the ordinance or resolution (i.e., maximum term of bonds/lease, maximum principal amount of bonds or lease rental, etc.).</p> <p>IC 6-1.1-20-3.5(b)(2), (3)</p>		
	<p>After notice of preliminary determination is published, a petition on a State Board of Accounts approved form requesting the application of the petition and reimbursement process may be filed by the lesser of: 500 persons who are either owners of property within the political subdivision or registered voters residing in the political subdivision; or 5% of the registered voters residing within the political subdivision. Forms are available at the county voter registration office.</p> <p>IC 6-1.1-20-3.5(b)(4)</p>		
	<p>File petitions with the county voter registration office not more than 30 days after publication of notice of the preliminary determination.</p> <p>IC 6-1.1-20-3.5(b)(7)</p>		<p>If county voter registration office does not determine that at least 525 persons who signed the petition are registered voters, no later than 15 business days after receiving a petition, the county voter registration office must forward a copy of the petition to the county auditor.</p> <p>IC 6-1.1-20-3.5(b)(8)</p>
	<p>County voter registration office determines at least 525 persons who signed the petition are registered voters.</p> <p>IC 6-1.1-20-3.5(b)(8)</p>		<p>No later than 10 business days after receiving the copy of the petition, the county auditor must provide to the county voter registration office a statement verifying: (1) whether a person who signed the petition as a registered voter but who is not a registered voter is the owner of real property in the political subdivision; and (2) whether a person who signed the petition as an owner of property does in fact own property within the political subdivision.</p> <p>IC 6-1.1-20-3.5(b)(8)</p>
	<p>No later than 10 business days after determining that at least 525 persons who signed the petition are registered voters or after receiving the statement from the county auditor, the county voter registration office must make the final determination of whether the lesser of 500 registered voters/real property owners or 5% of the registered voters have signed the petition.</p> <p>IC 6-1.1-20-3.5(b)(9)</p>		<p>If the political subdivision is not a township, the county voter registration office must file a certificate and each petition with the body that has the authority to issue the bonds or execute the lease within 35 business days of the filing of the petition requesting the referendum process.</p> <p>IC 6-1.1-20-3.5(b)(10)</p>
	<p>If the political subdivision is a township, the county voter registration office must file a certificate and each petition with the township trustee who must present the petition(s) to the township board within 35 business days of the filing of the petition requesting the referendum process.</p> <p>IC 6-1.1-20-3.5(b)(10)</p>		<p>If a sufficient petition requesting the application of the referendum question has been filed, the political subdivision may not improve property taxes to pay debt service on bonds or lease rentals on a lease unless the proposed debt service or lease rental is approved in an election on a local public question.</p> <p>IC 6-1.1-20-3.6(b)</p>
	<p>If the county election board approves the language of the public question, then the county election board shall submit the public question language to the Department for review. The question submitted to voters must use the following language and format: "Shall _____ (insert the name of the political subdivision) increase property taxes paid to the</p>		

- Construction Project Local Public Question/Referendum Process Flow Chart
- [www.in.gov/dlgf/referendum-information/](http://www.in.gov/dlgf/referendum-information/)



# Public Questions Not Certified by Department

- Change in Number of Members in Legislative Body (IC 36-5-2-4.2)
  - *Town of Atlanta (2022), (2020)*
  - *Town of Jamestown (2022)*
  - *Town of Winslow (2022)*
- Extension of Parks Services (IC 36-10-3-35) (IC 36-10-4-5)
  - *Town of Knightstown (2022)*
- Withdrawal of Township from Planning & Zoning (IC 36-7-4-1212)
- Establishment of a Utility Service Board (IC 8-1.5-3-3)
  - *Huntertown (2022)*
- Removal of Municipally Owned Utility from IURC (IC 8-1.5-3-9)
  - *Wayne County (2022)*



# Questions?

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